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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.             | CONFIRMATION NO. |
|--|-------------|-------------------------|---------------------------------|------------------|
| 10/734,426   | 12/12/2003  | Martha Jo Meadows Brown | IFF-64                          | 3866             |
| 48080 7590 01/11/2007<br>INTERNATIONAL FLAVORS & FRAGRANCES INC.<br>521 WEST 57TH ST<br>NEW YORK, NY 10019 |             |                         | EXAMINER<br>WEINSTEIN, STEVEN L |                  |
|  |             |                         | ART UNIT                        | PAPER NUMBER     |
|  |             |                         | 1761                            |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE               | DELIVERY MODE                   |                  |
| 31 DAYS  |             | 01/11/2007              | PAPER                           |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/734,426

Applicant(s)

BROWN ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/25/06.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The response filed 10/25/06, to the restriction mailed 9/25/06, is non-responsive. The response elects Species I (wherein the compound is an integral portion of a package in the form of a packaging material) and Species IIa (which applicant states is the “compound directly applied to a consumer product”). However, Species II was not the compound directly applied to the consumer product, but rather, the compound added to the package. Species IIa was the compound added to the package in applied (i.e. adhering) strip form. Therefore, applicant has elected two Species instead of just one, which is improper and thus non-responsive. The response appears to be a bona fide (albeit, inaccurate) attempt to respond.

Upon reconsideration, the restriction requirement has been reviewed and modified as follows below. Accordingly, the restriction requirement mailed 9/25/06 is hereby withdrawn.

This application contains claims directed to the following patentably distinct species and an election to one of the following Species is required:

Species I, wherein the compound is integral with a portion of a package in the form of a laminate or composite packaging material or the packaging material; or

Species II, wherein the compound is an addition to the package; or

Species III, wherein the compound is directly applied to a consumer product; or

Species IV, wherein the compound is associated with an apparatus comprising a source of gas for use in a chamber; and

In addition, if Species II is elected, a further election to one of the following sub-species is required between:

Sub-Species IIa, wherein the addition to the package is in the form of the compound associated with an applied strip; or

Sub-Species IIb, wherein the addition to the package is in the form of the compound associated with a loose strip; or

Sub-Species IIc, wherein the addition to the package is in the form of the compound associated with a sachet; or

Sub-Species IId, wherein the addition to the package is in the form of the compound associated with a seal; and

In addition, if either Species I or Species II is elected, a further election to one of the following sub-species is required between:

Sub-Species Ie or IIf, wherein the compound is released under normal conditions of temperature and pressure; or

Sub-Species If or IIg, wherein the compound is released under the external stimulus of heat; or

Sub-Species Ig or IIh, wherein the compound is released under the external stimulus of microwave radiation; or

Sub-Species Ih or IIi, wherein the compound is released under the external stimulus of mechanical energy; and

In addition, if either Species I or Species II is elected, a further election to one of the following sub-species is required between:

Sub-Species Ii or Iij, wherein the package is a pouch; or

Sub-Species Ij or IIj, wherein the package is a rigid package; and finally,

In addition, if either Species I or Species II is elected, a further election to one of the following sub-species is required between:

Sub-Species Ik or IIk, wherein the compound is in liquid form; or

Sub-Species Il or III, wherein the compound is in powder form.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species and the appropriate sub-species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic to all claims.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which claims are readable upon the elected species. MPEP § 809.02(a).

To expedite prosecution, it is noted that although the application was filed with figures 9 and 10, these figures do not appear to be described either in the Brief Description of the Drawings or the body of the specification. Applicant is cautioned against the addition of New Matter. Also, the specification appears to make a distinction between the so-called "off-odor eliminating compounds" and scavengers. That is, the specification appears to define the former as compounds which volatilize and react with off-odor compounds in the air (or on the product too?) whereas the scavengers appear to be distinguished as non-volatile adsorbents. In fact, the only "off-odor eliminating compound" that appears to be disclosed is a sulphur scavenging

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compound, and specifically a commercial product containing C16-C18 acids, predominately linoleic acid. Is this compound conventionally known as either a volatile, off-odor eliminating compound or a sulphur scavenger? Clarification and/or correction is requested in this regard.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Steve Weinstein*  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
1/7/06